

# EXHIBIT E



**Kappler, Kerry**

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**From:** Weikert, Robert  
**Sent:** Friday, August 24, 2018 5:35 AM  
**To:** Stephen C. Steinberg  
**Cc:** Kappler, Kerry; mark@palmerlex.com; May, David; Wiser, Jennette; Valentine, Dawn; Kunze, Jason  
**Subject:** Re: Stardock Systems, Inc. v. Paul Reiche III and Frederick Ford

Steve,

We disagree with the various arguments advanced in the below email and your decision to be selective in your response is telling. Reiche and Ford will of course bear personal liability under the DMCA for these actions and we trust that you and Mark have so advised them.

Putting this aside for a moment, though, and given the vague and conclusory nature of the subject DMCA notice, please immediately provide us with the following, which Stardock is clearly entitled to understand:

1. What "creative materials" allegedly authored or owned by your clients appear in each of the allegedly infringing materials listed in, and that are the subject of, your August 17, 2018 DMCA notice?
2. What "Works", as that term is defined in the DMCA notice, are "used in" each of the above-referenced allegedly infringing materials, as represented by you to Valve in the subject DMCA notice?
3. What features, aspects, elements, etc., of each of the three above-referenced allegedly infringing materials do your clients contend are "substantially similar" to or constitute unauthorized derivatives of the Works?

These assertions form the basis for the DMCA notice, as well as your representations to Valve. Please provide us with the answers to these questions by noon PDT today so that Stardock is able to pursue the remedies available to it. Given that the notice was prepared and submitted less than a week ago, this information should be readily available. We look forward to receipt of it today. Thank you.

Robert A. Weikert  
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C 415-298-2548  
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On Aug 23, 2018, at 1:27 PM, Stephen C. Steinberg <[ssteinberg@BZBM.com](mailto:ssteinberg@BZBM.com)> wrote:

Rob,

This email is in response to your letter dated August 22, 2018. Your letter makes a series of misrepresentations, and we disagree with your arguments that our clients' DMCA notice is false and reject your demand to withdraw it. I will not take time to rebut every point, but simply respond to some of the most obvious and material misstatements.



First, as you know from discovery in the pending litigation, my clients authored and/or otherwise own copyrights to all of the creative materials in Star Control I and II, except part of the music licensed from a third-party, and all elements in Star Control 3 that were present in or derived from Star Control I and II. The DMCA notice cites these copyrighted works, not just the computer code and other materials covered by my clients' registrations.

Second, your point about the timing of the registrations has no bearing on my clients' ownership of their copyrights or whether materials published by Stardock on Valve/Steam's service infringe such copyrights (which we believe they clearly do). As to your citation of Rule 11 issues, I suggest you re-examine your own pleadings for knowingly false statements, e.g.: a) that Reiche did not own any copyrights to Star Control I and II; b) that Accolade adopted and used and Stardock acquired from Atari numerous trademarks besides STAR CONTROL; c) that Stardock first became aware of sales of the Classic Star Control Games on GOG on October 22, 2017; and d) that the sales on GOG were unauthorized and infringing.

Third, your point about an alleged delay in my clients' seeking to protect and enforce their rights is mistaken, as your client stated repeatedly for 4+ years that they would not use anything from my clients' games, including the lore, aliens (including names and designs), history, art, music, ships, characters, etc. Only recently has Stardock revealed its true intentions to release a game and content that are clearly substantially similar to and/or derivative of Star Control I and II.

Thus, your threats about our notice being false are unavailing, and we will similarly hold Mr. Unangst and Stardock liable for their false statements in their counternotice, as Stardock knows well that the removed materials are infringing.

I suggest you ensure that Stardock refrains from releasing any future version of Star Control: Origins or content for use therein that is substantially similar to and/or derivative of my clients' copyrighted works. We reserve the right to serve further DMCA notices as additional examples of Stardock's infringement are identified and as authorized by the DMCA.

Steve

**Stephen C. Steinberg**  
**Principal**  
**BARTKO ZANKEL BUNZEL & MILLER**  
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**From:** Kappler, Kerry [<mailto:kkappler@nixonpeabody.com>]  
**Sent:** Wednesday, August 22, 2018 4:31 PM  
**To:** Stephen C. Steinberg <[ssteinberg@BZBM.com](mailto:ssteinberg@BZBM.com)>  
**Cc:** [mark@palmerlex.com](mailto:mark@palmerlex.com); Weikert, Robert <[rweikert@nixonpeabody.com](mailto:rweikert@nixonpeabody.com)>; May, David <[DMay@nixonpeabody.com](mailto:DMay@nixonpeabody.com)>; Wiser, Jennette <[jwiser@nixonpeabody.com](mailto:jwiser@nixonpeabody.com)>; Valentine, Dawn <[dvalentine@nixonpeabody.com](mailto:dvalentine@nixonpeabody.com)>  
**Subject:** Stardock Systems, Inc. v. Paul Reiche III and Frederick Ford



Dear Mr. Steinberg,

Please see attached correspondence.

Thank you.



**Kerry Kappler**

Practice Assistant

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